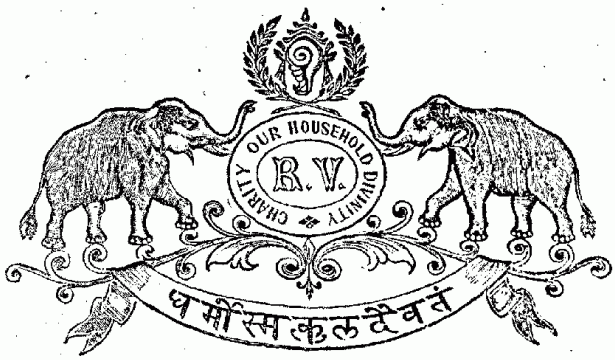
TRAVANCORE GOVERNMENT GAZETTE, SUPPLEMENT.

TUESDAY, 30th November 1897.



Abstract Proceedings of the Travancore Legislative Council.

The Council met in the Dewan's room, Public Offices, at 3 P. M., on Saturday the 20th November 1897. / 6th Vrichigom 1073.

PRESENT.

The Dewan ... ... *Presiding.*

M. R. Ry. K. Krishnaswamy Rao Avergal, Dewan Bahadur, F. M. U.
M. R. Ry. P. Thanu Pillai Avergal, M. A.
Mr. I. H. Prince.
M. R. Ry. K. P. Sankara Menon Avergal, B. A., B. L.
Mr. K. K. Kuruvila, B. C. E.

Secretary.—I beg to announce that the Game Preservation Bill, passed on the 15th September 1897, received the Royal assent on the 25th Idem and has become law as Regulation III of 1073—coming into force at once.

The following letters were then laid on the table:—

From whom received.	Subject.
Sankaranarayana Iyen, Huzur Office ...	Criminal Procedure Code Amendment Bill.
C. John, Kottayam	Abkari Regulation Amendment Bill.

PENAL CODE BILL.

Mr. Krishnaswamy Rao.—With reference to certain points brought to notice I have to place before the Council a few amendments of which copies have been sent round. Many of them must have appeared to you self-explanatory. I would proceed with them in order.

Sections 3 *and* 4.

Mr. Krishnaswamy Rao.—Sections 3 and 4 belong, strictly speaking, to the province of procedure and may well be dropped from the Bill.

Seconded by Mr. Sankara Menon.

Carried.

Section 5.

Mr. Krishnaswamy Rao.—In section 5, I would move that the words "the customary law which exempts Brahmins and women of all classes from capital punishment" be substituted for the words "any custom or usage relating to capital sentence" in lines 2 and 3—also alter the number of the section into 3.

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The addition in respect of customary exemption as it now stands in the Bill may be considered too vague and wanting in the legal precision which should characterise a penal law. The proposed amendment removes this defect.

Seconded by Mr. Prince.

Carried.

Mr. Krishnaswamy Rao.—My next amendment is this—to insert two new sections as 11 and 12—thus: altering the number of sections 6 to 12 into 4 to 10.

"11. The words 'Her Majesty the Queen Empress of India' denote the Sovereign for the time being of the United Kingdom of Great Britain and Ireland, and Emperor or Empress of India as the case may be.

"12. The words 'British India or India' denote the territories which are or may become vested in Her Majesty the Queen Empress of India, by Statute 21 and 22 Victoria, Chapter 106, entitled 'An Act for the better government of India."

The expressions 'Her Majesty the Queen Empress of India' and 'British India' often occur in the Bill—the former in place of 'Queen' in the British Code which is defined there. I think it desirable to have these two additional sections, if only to complete the definitions in the Code.

Seconded by Mr. Sankara Menon.

Carried.

Section 15.

Mr. Krishnaswamy Rao.—In section 15, I would propose a verbal change *viz.*, to insert the words "in relation to the exercise of his functions as such servant" after the word 'subjects' in line 2 of Explanation II.

Seconded by Mr. Prince.

Carried.

Sections 50 *and* 53.

Mr. Krishnaswamy Rao.—I pass on to sections 50 and 53. In these I would insert the words "under Our Code of Criminal Procedure" after the words "commuted" and "commutation of a sentence" respectively. The amendment makes the meaning quite clear.

Seconded by Mr. Thanu Pillai.

Carried.

Section 58.

Mr. Krishnaswamy Rao.—In section 58, a typographical error has to be corrected—the word 'than' to be inserted after the word 'less' in the 4th line.

Seconded by Mr. Sankara Menon.

Carried.

Sections 64 *and* 85.

Mr. Krishnaswamy Rao.—I would take the next two amendments on the paper together—being verbal again.—

In section 64, substitute the words 'the sentence passed on such conviction' in lines 4 and 5 for the words 'the punishment imposed on his previous conviction;' also insert the word 'thereafter' after 'shall' in the 5th line; and substitute 'and' for 'or' and omit the words 'who has been' in the 4th line of the Explanation.

In section 85, substitute 'if a male' for 'in the case of males' in line 1, and 'if a female' for 'in the case of females' in line 2.

Seconded by Mr. Thanu Pillai.

Carried.

Section 117.

Mr. Krishnaswamy Rao.—I beg to move that in section 117 the words 'hatred of' be substituted for 'disaffection to.' The effect is obvious enough.

The motion was lost for want of a seconder.

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The Council at the same time expressed the opinion that no departure from the wording of the British Code appeared necessary or expedient.

Section 182.

Mr. Krishnaswamy Rao.—In section 182, I would move the omission of the words 'now in force or which may hereafter be' in line 2, and insert the words 'and use' after the word 'creation' in line 3. This places the intention of the Legislature beyond doubt.

Seconded by Mr. Kuruvila.

Carried.

Section 195.

Mr. Krishnaswamy Rao.—I would have section 195 recast thus, for greater clearness and precision.—Substitute the words "whoever accepts or obtains or agrees to accept or attempts to obtain any gratification other than the travelling and other expenses according to the scale prescribed by a competent authority, as an inducement to his giving or withholding evidence or as a reward for his having given or withheld evidence" for all the words in the first two lines and up to the word 'thereby' in the 3rd line; and insert in line 5, 'or has been' between 'be' and 'given' and add 'or withheld' after the word 'given.'

Seconded by Mr. Prince.

Carried.

Sections 221, 222 *and* 224.

Mr. Krishnaswamy Rao.—Coming to section 221, I would move the omission of the word 'illegal' both in the main section and in Explanation I, and substitute 'word' for 'words' in the first line of the Explanation.

In view of the new Explanation, the word 'illegal' in the section need hardly be retained. It is perhaps even misleading taken with the definition of the word in the Code. The word 'illegal' may likewise be omitted, I think, in sections 222 and 224.

Seconded by Mr. Thanu Pillai.

Carried.

A discussion followed as to the necessity of the new Explanation itself, as the result of which the President moved its omission.

Seconded by Mr. Kuruvila and carried by majority.—Messrs. Krishnaswamy Rao and Sankara Menon voting against. Mr. Thanu Pillai abstained from voting.

Section 515.

Mr. Krishnaswamy Rao.—I have one more amendment to propose and that is in section 515.—Substitute for the Explanation the following Explanations—

(1) In every attempt punishable by this Code, there must be an outward visible act done towards the commission of a particular offence. The procuring or arranging the means or measures necessary for the commission of an offence is not an act done towards the commission of that offence.

(2) There may be an attempt to commit an offence, although the object of the intended offence be absent.

(3) There may be an attempt to commit an offence, though the means employed, be relatively insufficient. There cannot be an attempt to commit an offence when such means are absolutely insufficient.

The detailed Explanations have this recommendation—greater clearness for practical working—and that doubtless is a great advantage.

Mr. Thanu Pillai.—I second the amendment. The Explanation, as it stands, has, it must be admitted, the merit of learned terseness; but, I am afraid, at the sacrifice of lucidity. The section has, on all hands, been considered far from intelligible and anything that will contribute to its elucidation so as to serve as a clear guide must be a distinct gain.

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Mr. Sankara Menon.—I beg to move an amendment to the amendment proposed. I am not for expunging the Explanation in the Bill which has been taken from the German Code. It appears to me to be a comprehensive enunciation of the guiding principle. The best course is to retain this Explanation and have the suggested Explanations entered as subsidiary paras by way of illustrating the main dictum.

Seconded by Mr. Kuruvila.

Carried *nem con.*

Resolved that the Bill be read again at a future meeting.

EVIDENCE BILL.

Mr. Prince.—The next business on the agenda is the discussion of the principle of the Evidence Bill. I do not think I need enter into any lengthy remarks at this stage. All that has to be said is contained in the 'Objects and Reasons' attached to the Bill. I now beg to move that the principle of the Bill be affirmed.

Mr. Sankara Menon.—I hear that on a previous occasion a Bill of this sort was introduced by Mr. Rajarama Row and when it was referred to the High Court, the Judges are said to have observed that they did not feel the necessity for such a measure. I have not seen their opinion. The sole purpose of a measure, such as this, being to aid those who administer justice in the land, the Judges of the High Court are the most competent to express an opinion as to the necessity and serviceability of the Bill and their opinion ought certainly to guide us more than anything else in its consideration. I do not know if their opinion was taken as regards this Bill. If so, it is not circulated. I therefore propose that the discussion of the principle of the Bill be adjourned till after the opinion of the High Court is circulated among the members. I may add that my learned friend the mover has no objection to my suggestion.

Resolved accordingly.

DEPARTMENTAL ENQUIRIES BILL.

Mr. Krishnaswamy Rao.—The Departmental Enquiries Bill which was introduced at the last ordinary meeting is put down for the next formal stage. Having regard to the fact that the present Bill is virtually a portion of the Bill superseded which underwent thorough discussion by the Council, and the fact that the fuller measure is to be dropped mainly on the ground that the parts to be omitted have become superfluous in view of codified rules on the subject since passed by Government, I think it hardly necessary to have any fresh discussion of the principle or even to refer the Bill to a Select Committee. I would, with the permission of the President, have the Bill taken up for consideration at once. But as the members have not apparently had notice it may be deferred to the next meeting.

Resolved accordingly.

WILLS BILL.

Mr. Krishnaswamy Rao.—As resolved at the last meeting the Bill as further revised by the Council has been before the public and I beg to move that it be read on a future day of which notice shall be given.

The motion was put and agreed to.

ABKARI REGULATION AMENDMENT BILL.

Mr. Thanu Pillai.—I am sorry that the Select Committee's Report could not be circulated in sufficient time for taking it up now. I would therefore simply present the Report formally and move that it be taken into consideration at an early date.

The motion was put and agreed to.

NEGOTIABLE INSTRUMENTS BILL.

Mr. Kuruvila.—In the interests of the development of the commercial prosperity of the country, I beg to ask for leave to introduce a Bill for defining the law relating to Negotiable Instruments.

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